

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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**NOEMI MARTE,**

Index No.:  
08Civ.4338 (PAC)

Plaintiff,

-against-

**RESPONSE TO DEMAND  
TO FURNISH SPECIFIED  
INFORMATION**

**BRIAN KEITH MOREHART and LUCAS TRUCKING  
CORP.**

Defendants.

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Plaintiff, through her attorneys, BELOVIN & FRANZBLAU, LLP,  
responding to the demands of the defendants, respectfully sets forth  
as follows:

**RESPONSE TO DEMAND FOR MEDICAL INFORMATION**

1. Pelham Physical Medicine Diagnostic & Treatment Center  
2118 Williamsbridge Road  
Bronx, New York 10461  
The specific dates of treatment are unknown to plaintiff.

Montefiore Medical Center  
111 East 210<sup>th</sup> Street  
Bronx, New York 10467  
Emergency Room Treatment on date of this accident.

Mitchell Zeren, D.C.  
2676 Grand Concourse  
Bronx, New York 10458  
Specific dates of treatment are unknown to plaintiff.

Inter County Imaging  
955 Yonkers Avenue  
Yonkers, New York 10704  
Specific dates of treatment are unknown to plaintiff.

2. Authorizations to obtain copies of medical records from  
plaintiff's providers are annexed hereto.

3. Authorizations to obtain copies of medical records from plaintiff s providers are annexed hereto.

4. Copies of medical records in plaintiff s possession are annexed hereto.

5. Plaintiff is not making a claim for exacerbation of a pre-existent injury.

6. Not applicable.

7. None known to plaintiff.

8. None known to plaintiff.

#### **RESPONSE TO DEMAND FOR COLLATERAL SOURCES**

As a result of this incident, plaintiff filed for no-fault benefits but all no fault benefits were denied. Plaintiff s private health care insurance, Aetna Health Plans, has made payments to medical providers on her behalf. On behalf of Aetna Health Plans, the claim Aetna is making with respect to their payments is being handled by The Rawlings Company, Post Office Box 2000, LaGrange, Kentucky 40031. Their file number is 07AIN1200533. An authorization to obtain a copy of these records is annexed hereto.

#### **RESPONSE TO DEMAND FOR WITNESSES**

Other than the parties involved, plaintiff is aware of two witnesses: Cynthia Stinziano and Alexia Derizzio. The addresses of such witnesses are not known to plaintiff at present. However, the police accident report lists Ms. Stinzano s address as 2202 Wickham

Avenue, Bronx, New York 10469. Plaintiff will provide addresses for each witness when and if such addresses become known to plaintiff.

**RESPONSE TO DEMAND FOR PHOTOGRAPHS**

\_\_\_\_Plaintiff is not in possession of any photographs related to this incident.

**RESPONSE TO DEMAND PURSUANT TO G.O.L. 15-108**

Not applicable.

**RESPONSE TO DEMAND FOR ACCIDENT REPORTS**

A copy of the two page police accident report is annexed hereto. Plaintiff is not in possession of any other accident reports.

**RESPONSE TO DEMAND FOR EXPERTS**

The plaintiff intends to call Dr. Sam Jin Yee, M.D., to testify at the trial of this matter. Dr. Yee treated plaintiff and supervised treatment of plaintiff while practicing medicine at Pelham Physical Medicine Diagnostic & Treatment Center, 2118 Williamsbridge Road, Bronx, New York 10461. It is expected that Dr. Yee will testify as to the history of plaintiff's condition and accident, the causation of plaintiff's current condition, the diagnosis of plaintiff's injuries, the prognosis of plaintiff's injuries, the permanency of plaintiff's injuries, the affects on plaintiff's life style as a result of the injuries and as to all those matters contained in Dr. Yee s previously exchanged medical reports and records, and to those injuries contained in plaintiff s verified bill

of particulars. Dr. Yee will also testify as to the results of a variety of diagnostic tests, including x-rays, MRIs, Ct scan and EMGs.

Dr. Yee is a medical doctor, duly qualified to practice medicine in the State of New York. The specifics of Dr. Yee's qualifications will be provided under separate cover.

**RESPONSE TO DEMAND FOR ATTORNEYS**

Belovin & Franzblau, LLP - 2311 White Plains Road, Bronx, NY 10467, Attorneys for Plaintiff;

Law Offices of John P. Humphreys - 485 Lexington Ave., 7<sup>th</sup> Fl., New York, NY 10007, Attorneys for Defendants.

**RESPONSE TO DEMAND FOR STATEMENTS**

There are no statements in plaintiff's possession.

**RESPONSE TO DEMAND FOR AFFIDAVIT OF SERVICE**

A copy of the affidavits of service are annexed hereto.

**RESPONSE TO DEMAND FOR SCHOOL AUTHORIZATIONS**

Not applicable.

**RESPONSE TO DEMAND FOR NO-FAULT RECORDS**

None.

**RESPONSE TO DEMAND FOR WORKERS COMPENSATION RECORDS**

None

**RESPONSE TO DEMAND FOR DISABILITY RECORDS**

Not applicable.

**RESPONSE TO DEMAND FOR INSURANCE COVERAGE TO PLAINTIFF(S)  
ON COUNTERCLAIM AND/OR CO-DEFENDANT(S)**

Not applicable.

**RESPONSE TO DEMAND FOR LEGAL CERTIFICATES**

\_\_\_\_Not applicable.

**RESPONSE TO DEMAND FOR EMPLOYMENT RECORDS**

An authorization for plaintiff's employment records is annexed hereto. Plaintiff is not making a claim for loss of earnings.

**RESPONSE TO DEMAND FOR TAX RECORDS**

Not applicable. This demand is improper as plaintiff is not making a claim for lost earnings. Plaintiff has provided an employment record authorization herein.

**RESPONSE TO DEMAND FOR PLEADINGS**

\_\_\_\_Defendant is already in possession of all prior pleadings.

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**RESPONSE TO DEMAND FOR TRANSCRIPTS**

Plaintiff is not in possession of any related transcripts.

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**RESPONSE TO DEMAND FOR BILLS AND RECEIPTS**

Plaintiff is not in possession of any such bills or receipts.

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**RESPONSE TO DEMAND FOR 50-h HEARING**

Not applicable.

**RESPONSE TO DEMAND FOR UNION RECORDS**

Not applicable.

**RESPONSE TO DEMAND FOR MANAGEMENT AGREEMENT FROM CO-DEFENDANT**

Not applicable.

**RESPONSE TO DEMAND FOR MAIN CONTRACT**

Not applicable.

**RESPONSE TO DEMAND FOR BANKRUPTCY PETITION**

Not applicable.

Dated: Bronx, New York

Yours, etc.,

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David A. Karlin  
**BELOVIN & FRANZBLAU, LLP**  
Attorneys for Plaintiff  
Office & P.O. Address  
2311 White Plains Road  
Bronx , New York 10467  
(718) 655-2900

TO: LAW OFFICE OF JOHN P. HUMPHREYS  
Attorneys for Defendants  
LUCAS TRUCKING CORP. AND BRIAN KEITH MOREHART  
485 Lexington Avenue, 7<sup>th</sup> Floor  
New York, NY 10017  
(917) 778-6600

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

-----X

**NOEMI MARTE,**

Index No.: 08Civ.4338 (PAC)

Plaintiff,

**RULE 26 DISCLOSURE**

-against-

**BRIAN KEITH MOREHART and LUCAS TRUCKING CORP.**

Defendants.

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Plaintiff, NOEMI MARTE, by and through her attorneys, Belovin & Franzblau, LLP, sets forth the following as and for her disclosure under Rule 26 of the Federal Rules of Civil Procedure:

(A) (1) (A) (i). Individuals with discoverable information: Other than the parties involved in this action, plaintiff believes that Cynthia Stinziano and Alexia Derizzio may have discoverable information. Plaintiff is not aware of the actual address for either individual. However, the police accident report list Ms. Stinziano s address as 2202 Wickham Avenue, Bronx, New York 10469.

(ii). Relevant documents and tangible things under parties control: Plaintiff is aware of a two page police accident report and a copy of this report is annexed hereto.

(iii). Information related to calculation of damages: As a result of the accident herein, plaintiff suffered the following injuries:

a) left foraminal disc herniation at L3-4 with associated annular signal with annular tear;

b) proximal left neuro-foraminal narrowing at L3-4;



- c) right para-central disc herniation with ridging at C7-T1;
- d) straightening to the normal lordotic curvature of the cervical spine;
- e) cervicalgia;
- f) left shoulder tendinitis;
- g) thoracic pain;
- h) lumbar pain; and
- i) right shoulder pain.

All of the above injuries affected all surrounding tissues, nerves, ligaments, bones, blood vessels, skin and all said injuries caused swelling, loss of motion, limitation of motion, pain, suffering, loss of enjoyment of life, and loss of enjoyment of activities. Upon information and belief, all of the above injuries are permanent in nature.

Annexed hereto is copies of all of plaintiff s medical records in plaintiff s possession. Authorizations for all medical providers is annexed to the plaintiff s discovery responses.

(iv). Plaintiff is not in possession of any such insurance agreements. Plaintiff s application for no-fault benefits was denied as the no-fault carrier claimed that Workers Compensation benefits should apply. Plaintiff has not received any no-fault benefits or workers compensation benefits.

Plaintiff is aware of payments to medical providers made through her personal health care insurance, Aetna Health Plans. On

behalf of Aetna Health Plans, the claim is being handled by The Rawlings Company, Post Office Box 2000, LaGrange, Kentucky 40031. Their file number is 07AIN1200533. An authorization to obtain a copy of these records is annexed to the plaintiff's discovery responses.

2. The plaintiff intends to call Dr. Sam Jin Yee, M.D., to testify at the trial of this matter. Dr. Yee treated plaintiff and supervised treatment of plaintiff while practicing medicine at Pelham Physical Medicine Diagnostic & Treatment Center, 2118 Williamsbridge Road, Bronx, New York 10461. It is expected that Dr. Yee will testify as to the history of plaintiff's condition and accident, the causation of plaintiff's current condition, the diagnosis of plaintiff's injuries, the prognosis of plaintiff's injuries, the permanency of plaintiff's injuries, the affects on plaintiff's life style as a result of the injuries and as to all those matters contained in Dr. Yee's previously exchanged medical reports and records, and to those injuries contained in plaintiff's verified bill of particulars. Dr. Yee will also testify as to the results of a variety of diagnostic tests, including x-rays, MRIs, Ct scan and EMGs.

Dr. Yee is a medical doctor, duly qualified to practice medicine in the State of New York. The specifics of Dr. Yee's qualifications will be provided under separate cover. Dr. Yee's reports are annexed hereto. In addition, an authorization to obtain copies of Dr. Yee's medical records for plaintiff is annexed to the plaintiff's discovery responses.

Dated: Bronx, New York  
August 1, 2008

Yours, etc.,

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David A. Karlin  
**BELOVIN & FRANZBLAU, LLP**  
Attorneys for Plaintiff(s)  
Office & P.O. Address  
2311 White Plains Road  
Bronx , New York 10467  
(718) 655-2900

TO: Law Office of John P. Humphreys  
Attorneys for Defendant(s)  
LUCAS TRUCKING CORP. AND BRIAN KEITH MOREHART  
485 Lexington Avenue, 7<sup>th</sup> Floor  
New York, NY 10017  
(917) 778-6600

**AFFIDAVIT OF SERVICE**

STATE OF NEW YORK

ss:

COUNTY OF BRONX

Lori Borelli being duly sworn, deposes and says:

That deponent is not a party to the action is over the age of 18 years and resides in Putnam County in the State of New York.

I served a true copy of the annexed **RESPONSE TO DEMAND TO FURNISH SPECIFIED INFORMATION & RULE 26 DISCLOSURE** on August 1, 2008 upon:

Law Office of John P. Humphreys  
485 Lexington Avenue, 7<sup>th</sup> Floor  
New York, NY 10017

the address(es) designated by said attorneys for that purpose by depositing a true copy of same enclosed in a post-paid properly addressed wrapper, in a post office or official depository under the exclusive care and custody of the United States Postal Service within the State of New York.

\_\_\_\_\_  
Lori Borelli

Sworn to before me on  
August 1, 2008

\_\_\_\_\_  
Notary Public

Law Office of John P. Humphreys  
485 Lexington Avenue, 7<sup>th</sup> Floor  
New York, NY 10017